

# Transcript of the Testimony of

**John L. Sigalos**

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**Volume:**

**Case:** HIGHMARK, INC. v. ALLCARE HEALTH MANAGEMENT

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<p>1     A. I recognize the number and I've seen it before, 2 yes.</p> <p>3     Q. Okay. Do you understand when I use the 4 shorthand the 105 patent that I'll be referring to this 5 patent here?</p> <p>6     A. Yes.</p> <p>7     Q. You're comfortable with that terminology?</p> <p>8     A. Yes.</p> <p>9     Q. The previous litigation that you were deposed in 10 on behalf of Allcare before today, the issue in that case 11 was this 105 patent and an infringement of that patent; 12 is that correct?</p> <p>13    A. As far as I remember, yes.</p> <p>14    Q. Okay. Do you remember who the litigants were in 15 that case?</p> <p>16    A. No.</p> <p>17    MR. KUCLER: I'm actually not going to mark 18 this if that's okay with you, Steve, at least for now.</p> <p>19    Q. (By Mr. Kucler) I will show you a copy of a 20 document the front of which says, Allcare Health 21 Management V Cerner Corporation, deposition of John Louis 22 Sigalos, February 22nd, 2000. Do you have that in front 23 of you?</p> <p>24    A. Yes.</p> <p>25    Q. Do you recognize this as a copy of the</p>	<p>Page 9</p> <p>1     Q. I understand, and that makes perfect sense, 2 Mr. Sigalos.</p> <p>3     Could you turn to the back page of that 4 deposition, the deposition transcript in front of you?</p> <p>5     A. Uh-huh.</p> <p>6     Q. And I believe it is some type of errata sheet; 7 is that correct?</p> <p>8     A. Well, it's a place where I should sign if there 9 was -- I guess that's -- it says what -- I can't see what 10 it says. Corrigendum. Always like to do things in Latin 11 so people don't understand them.</p> <p>12    Q. Do you know what a corrigendum is?</p> <p>13    A. No.</p> <p>14    Q. Are you taking a look at the corrigendum right 15 now?</p> <p>16    A. I'm looking at it.</p> <p>17    Q. Okay. Do you recall going through your 18 deposition and then filling out that corrigendum to 19 correct mistakes in your deposition?</p> <p>20    A. I have absolutely no recollection of anything.</p> <p>21    Q. Do you, sitting here today, recall any questions 22 or answers in that deposition transcript specifically 23 that you do not believe are the correct answers anymore?</p> <p>24    A. I haven't looked at it since that time, so --</p> <p>25    Q. So you can't specifically recall --</p>
<p>1     transcript of a deposition that you gave in the Cerner 2 litigation?</p> <p>3     A. Well, it looks like it's a copy, yes.</p> <p>4     Q. Do you remember giving that deposition?</p> <p>5     A. No.</p> <p>6     Q. Okay. When you gave that deposition, you were 7 under oath just like you are today; isn't that correct?</p> <p>8     A. Correct.</p> <p>9     Q. Okay. And you testified truthfully during that 10 deposition; is that correct?</p> <p>11    A. Yes.</p> <p>12    Q. After the deposition was completed, do you 13 remember being given a copy -- a preliminary copy of the 14 transcript at which time you were asked to review it to 15 see if there were any inaccuracies?</p> <p>16    A. I can't remember clearly, but I -- let me just 17 tell you something so you can appreciate what I'm telling 18 you. This deposition was taken evidently in February.</p> <p>19    Q. Yes, sir.</p> <p>20    A. My daughter was critically ill with cancer, and 21 she died some six weeks later. So that was a very 22 difficult period. And I know it's usual to give a -- 23 when this deposition was signed, and I believe it 24 happened, but I really don't recall. I mean, I was 25 focused on something completely different at that time.</p>	<p>Page 10</p> <p>1     A. No.</p> <p>2     Q. -- any that you would change at this time?</p> <p>3     A. No.</p> <p>4     Q. Okay.</p> <p>5     MR. KUCLER: Could we actually mark the 6 deposition transcript now, please?</p> <p>7     THE REPORTER: Sure.</p> <p>8     MR. KUCLER: That's going to be Exhibit 2. (Exhibit 2 marked.)</p> <p>9     MR. KUCLER: Mr. Hill, I didn't have 10 another copy of that.</p> <p>11    Q. (By Mr. Kucler) Switch now, Mr. Sigalos, to 12 people and entities that you've represented as an 13 attorney in the past. Have you ever represented as an 14 individual Robert Shelton who's sitting at the table here 15 today?</p> <p>16    A. Yes.</p> <p>17    Q. Okay. And when did you first meet Mr. Shelton?</p> <p>18    A. He was referred to me by his uncle on a patent 19 matter.</p> <p>20    Q. Okay. Had you done --</p> <p>21    A. Or cousin. I forgot. Something like that.</p> <p>22    Q. You had done previous work for Mr. Shelton's 23 relative, be it cousin or uncle?</p> <p>24    A. For his law firm. He was the managing partner</p>

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1 A. I know it's not hundreds of thousands.		1 A. Oh, no, no.	
2 Q. Okay.		2 Q. Okay. Have you ever discussed claim	
3 A. I would say in the nature of tens of		3 construction with anyone at Allcare?	
4 thousands --		4 A. Not that I'm aware of, no.	
5 Q. Okay.		5 Q. Have you ever taken it upon yourself to try to	
6 A. -- or 10,000 plus a little bit. I just don't --		6 construe any of the claims of the 102 patent?	
7 I have no --		7 A. Oh, no.	
8 (Exhibit 13 marked.)		8 Q. Have you ever been asked to do that?	
9 A. So you knew it all the time, for crying out		9 A. No.	
10 loud.		10 Q. Okay. In the claims of the 105 patent as	
11 Q. (By Mr. Kucler) Actually, I'm just looking at		11 issued, are you aware of whether any of the terms in any	
12 these now. Could you look through the documents in		12 of the claims has a definition other than its ordinary	
13 Exhibit 13 for me, please?		13 meaning?	
14 A. Sure.		14 A. I have no knowledge.	
15 Q. Let me know when you have gotten to do that.		15 Q. That wasn't your area?	
16 A. Yes, I've read it.		16 A. I'm sorry?	
17 Q. And the first page here appears to be a memo		17 Q. That wasn't your area?	
18 from you to Allcare?		18 A. That wasn't my area at all.	
19 A. Correct.		19 Q. Okay. If you needed to go and find out what the	
20 Q. Which confirms as of October 31st, 1997, an		20 meaning of the terms were, would Dr. Cummings know that?	
21 amount owing --		21 A. I'm sorry?	
22 A. Yes.		22 Q. If you were trying to find out what the meaning	
23 Q. -- to you for professional services?		23 of claim terms were, would Dr. Cummings know that?	
24 A. Uh-huh.		24 A. I don't know.	
25 Q. And the next page is a letter to a Carolyn		25 Q. Okay. Would Dr. Cummings qualify as one skilled	
	Page 94		Page 96
1 Billington at Allcare --		1 in the art for the purposes --	
2 A. Right.		2 A. I'm sorry?	
3 Q. -- I believe stating the same thing?		3 Q. Would Dr. Cummings qualify as one skilled in the	
4 A. Correct.		4 art for purposes of the 105 patent?	
5 Q. And the amount appears to be \$15,230.41?		5 A. I would assume so, yes.	
6 A. 15,200, right.		6 Q. Okay. By your interpretation of what one	
7 Q. Okay. And the final portion of these documents		7 skilled in the art would be, you think Dr. Cummings would	
8 is a subscription agreement?		8 qualify?	
9 A. Yes.		9 A. I have really no way of gauging that.	
10 Q. And you signed and received \$15,200 worth of		10 Q. Okay.	
11 Allcare stock as of that date?		11 A. I just know he's very knowledgeable, but I'm	
12 A. Correct.		12 just --	
13 Q. November 10th, 1997?		13 Q. Okay. Do you know who currently owns the 105	
14 A. Correct.		14 patent?	
15 Q. Okay. These documents are accurate, to the best		15 A. Allcare, as far as I know.	
16 of your recollection?		16 Q. Okay. We actually don't need to mark these. I	
17 A. Yes.		17 just want to -- I'm going to show you a document that's	
18 Q. Okay. Do you recall speaking with Dr. Cummings		18 called, Confirmatory Assignment, and one that's called,	
19 around the time period when you were just deposed in the		19 Quit Claim Deed. And I just want you to tell me,	
20 Cerner litigation which was in February of 2000?		20 Mr. Sigalos, if you recognize either of those two	
21 A. No, I don't. I remember -- that was a tough		21 documents.	
22 time for me. I don't remember anything.		22 A. No, I don't.	
23 Q. I understand. You don't recall then speaking		23 Q. You don't recall ever having anything to do with	
24 about claim construction of the 105 patent with		24 their preparation?	
25 Dr. Cummings?		25 A. No, I don't.	

<p style="text-align: right;">Page 113</p> <p>1 Q. Okay. Do you recall ever being asked to 2 contribute information to any type of a survey or 3 questionnaire that could be used to identify potential 4 infringers --</p> <p>5 A. No.</p> <p>6 Q. -- of the 105 patent?</p> <p>7 A. No.</p> <p>8 Q. Okay. I'm going to show you a couple of quick 9 documents, and I'm just going to ask you if you have ever 10 seen these before. The first is entitled, license for 11 option on patent rights. There is a stamp at the bottom 12 that says, 25 Sigalos from your previous deposition in 13 the Cerner case. Could you take a look at that for me, 14 please?</p> <p>15 A. I just don't remember.</p> <p>16 Q. You don't recall ever seeing that before?</p> <p>17 A. No.</p> <p>18 Q. I show you another document which has a label on 19 the bottom that's Exhibit 30 from your Cerner deposition 20 and ask you again if you recall ever seeing that before.</p> <p>21 A. No, I don't.</p> <p>22 Q. Okay. Take a look at that document that I've 23 just handed you and let me know if you have ever seen 24 that before, please.</p> <p>25 A. No, I don't. I've never seen this before.</p>	<p style="text-align: right;">Page 115</p> <p>1 18; is that correct?</p> <p>2 A. I'm sorry?</p> <p>3 Q. That was marked Deposition Exhibit Number --</p> <p>4 Deposition Exhibit Number 18; is that correct?</p> <p>5 A. Correct.</p> <p>6 Q. And again, you've never seen that before?</p> <p>7 A. No.</p> <p>8 (Exhibit 19 marked.)</p> <p>9 MR. KUCLER: Mr. Hill, I'm going to 10 apologize again. I only have one copy of this.</p> <p>11 Q. (By Mr. Kucler) If you could look at Exhibit 19 12 and tell me if you have ever seen that before.</p> <p>13 A. I don't remember seeing this.</p> <p>14 Q. Okay. So Exhibit 19, you've never seen before?</p> <p>15 A. I don't remember seeing it.</p> <p>16 Q. You don't recall ever having a hand in creating 17 that document?</p> <p>18 A. No, I don't.</p> <p>19 Q. Do you recall providing any information that led 20 to the creation of that document?</p> <p>21 A. I just don't remember anything about it.</p> <p>22 Q. Okay. Since that one is an exhibit, why don't 23 we put it in your pile?</p> <p>24 A. In my pile?</p> <p>25 Q. Yes.</p>
<p style="text-align: right;">Page 114</p> <p>1 Q. You've never seen that before?</p> <p>2 A. No.</p> <p>3 Q. Do you know who that document originated from?</p> <p>4 A. I beg your pardon?</p> <p>5 Q. Do you know whom that document originated from?</p> <p>6 A. It has two names up at the top, and I don't know 7 either one of those gentlemen or anything about them.</p> <p>8 Q. You're not familiar with either of the gentlemen 9 whose names are on the top?</p> <p>10 A. No, no.</p> <p>11 MR. KUCLER: Could we mark that as an 12 exhibit, please?</p> <p>13 (Exhibit 18 marked.)</p> <p>14 A. He didn't get a copy.</p> <p>15 Q. (By Mr. Kucler) I will give it right back.</p> <p>16 Could you just confirm for me on the record --</p> <p>17 A. I'm sorry?</p> <p>18 Q. Could you just confirm for me on the record the 19 numbers in the lower left-hand corner of the first page 20 and the last page of that, please? And then, by all 21 means, please show it to Mr. Hill.</p> <p>22 A. All right. The document begins with HAS 00649 23 and ends with Page Number -- hang on a moment here --</p> <p>24 HAS 00684.</p> <p>25 Q. And that was marked Deposition Exhibit Number</p>	<p style="text-align: right;">Page 116</p> <p>1 A. Well, there's some here that's confusing. I'll 2 let you straighten it out.</p> <p>3 Q. Okay. I'll sort through the pile after you're 4 done.</p> <p>5 Mr. Sigalos, when we spoke off the record a 6 couple of times today, you had mentioned some personal 7 aspects that contributed to either knowledge or lack of 8 knowledge at certain points in time.</p> <p>9 A. Yes.</p> <p>10 Q. And I wanted to give you the opportunity to 11 clarify on the record because I know I've shown you some 12 things from the past and some things from now.</p> <p>13 A. I wanted to explain that in the summer -- and I 14 can't remember the day, in July of 1997, we got word that 15 our daughter had -- one of our daughters had advanced 16 case of breast cancer which metastasized. And so we were 17 involved in taking her to various places in the United 18 States and elsewhere trying to fight it.</p> <p>19 And at the time of my first deposition, she 20 was gotten very critical, and she died just some six 21 weeks -- she died on April the 14th. And so I was trying 22 to explain why, you know, I -- I just -- I was so 23 consumed for those seven -- for those four years, you 24 know, with that situation.</p> <p>25 And since that time, we've had the problem</p>

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<p>1 because she was a divorcee with one child, so I was the      2 executor of her estate which was very painful trying to      3 close her estate. And then we had a grandparents'      4 lawsuit against my former son-in-law to get visitation      5 with our granddaughter. So it's been a very, very      6 difficult seven years for my wife and I. And I just --      7 this kind of stuff just -- just don't --</p> <p>8 Q. And --</p> <p>9 A. Plus the usual ravages of age.</p> <p>10 Q. I understand.</p> <p>11 A. I've reached the stage where my memory is      12 perfect now. I forget everything. Unfortunately, my      13 wife doesn't.</p> <p>14 Q. And Mr. Sigalos, I'm sorry for what happened, of      15 course. But you seemed like you wanted the opportunity      16 to say that.</p> <p>17 A. Yeah. I just -- yeah. I didn't want to give      18 you the impression I was being diffident about these      19 things.</p> <p>20 Q. I understand. And I wasn't trying to put you      21 under the gun or anything.</p> <p>22 A. All right. Thank you for giving me the      23 opportunity.</p> <p>24 Q. Sure, sure. Can I ask you, other than just, you      25 know, the obvious emotional stresses that are involved</p>	<p>Page 117</p> <p>1 been marked.</p> <p>2 THE VIDEOGRAPHER: Go off the record?</p> <p>3 MR. HILL: Do you want to read and sign?</p> <p>4 THE WITNESS: Huh?</p> <p>5 MR. HILL: Do you want to read and sign the      6 deposition transcript?</p> <p>7 THE WITNESS: Whatever they want. I don't      8 care.</p> <p>9 MR. KUCLER: Would you like to review      10 your --</p> <p>11 MR. HILL: We'll reserve signature.</p> <p>12 THE WITNESS: Yeah.</p> <p>13 THE VIDEOGRAPHER: We're off the record at      14 12:34.</p> <p>15 (End of Proceedings.)</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>1 with all those different things, did you have between      2 2000 and today, the last time you were deposed, or      3 actually at any time over the past few years, have you      4 had any medical problems that would cause, you know, any      5 memory lapses or any difficulty answering questions?</p> <p>6 A. Not really. I guess I have the usual.</p> <p>7 Q. Have you -- are you taking any medications now?</p> <p>8 A. Huh?</p> <p>9 Q. Are you taking any medications now?</p> <p>10 A. No.</p> <p>11 Q. Have you over the last few years that would have      12 affected your memory in any way?</p> <p>13 A. I don't think so. You know, I'm 76, almost 77.</p> <p>14 The ravages of time do whatever they're going to do.</p> <p>15 Q. I understand. Thinking back over, you know, all      16 the documents you've looked at and all the questions that      17 you've answered and stuff, do you have any additional      18 information to give in response to any of the questions      19 that I've asked you?</p> <p>20 A. I don't even remember all the questions you've      21 asked me.</p> <p>22 Q. Okay. Okay.</p> <p>23 MR. KUCLER: I think that's all we have.</p> <p>24 THE WITNESS: Okay. Thank you. I'll leave      25 these here for that young lady. Some of these have not</p>	<p>Page 118</p> <p>1 CHANGES AND SIGNATURE</p> <p>2 WITNESS NAME: _____ DATE OF DEPOSITION: _____</p> <p>3 PAGE LINE CHANGE REASON</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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